

cases where a defendant in a state or local criminal case demands testimony or the production of Customs documents or information, authorization from the Chief Counsel is required as under § 103.22 of this subpart. No disclosure of information under this section shall be made if any of the factors listed in § 103.23(b) of this subpart are present.

**§ 103.27 Procedure in the event of a demand for Customs information in a foreign proceeding.**

(a) *Required prior approval for disclosure.* In any foreign proceeding in which the Customs Service is not a party, no Customs employee shall, in response to a demand, furnish Customs documents or testimony as to any material contained in Customs files, any information relating to or based upon material contained in Customs files, or any information or material acquired as part of the performance of that person's official duties (or because of that person's official status) without the prior approval of the Chief Counsel, as described in paragraph (b) of this section.

(b) *Employee notification to Counsel.* Whenever a demand in a foreign proceeding is made upon a Customs employee concerning pre-clearance activities within the territory of the foreign country, that employee shall immediately notify the appropriate Associate Chief Counsel responsible for the pre-clearance location. All other demands in a foreign proceeding shall be reported by Customs employees to the Chief Counsel. The Customs employee shall then await instructions from the Chief Counsel concerning the response to the demand.

(c) *Counsel notification to originating component.* Upon receipt of a proper demand for Customs information, one which complies with the provisions of § 103.22(c), if the Chief Counsel believes that it will comply with any part of the demand, it will immediately advise the originating component.

(d) *Conditions for authorization of disclosure.* The Chief Counsel, subject to the terms of paragraph (e) of this section, may authorize the disclosure of Customs documents or the appearance

and testimony of a Customs employee if:

(1) Production of the demanded documents or testimony, in the judgment of the Chief Counsel, are appropriate under the factors specified in § 103.23(a) of this subpart; and

(2) None of the factors specified in § 103.23(b) of this subpart exist with respect to the demanded documents or testimony.

(e) *Limitations on the scope of authorized disclosure.* (1) The Chief Counsel shall authorize the disclosure of Customs information by a Customs employee without further authorization from Customs officials whenever possible, provided that:

(i) If necessary, Counsel has consulted with the originating component regarding disclosure of the information demanded;

(ii) There is no objection from the originating component to the disclosure of the information demanded; and

(iii) Counsel has sought to limit the demand for information to that which would be consistent with the factors specified in § 103.23 of this part.

(2) In the case of an objection by the originating component, the Chief Counsel shall make the disclosure determination.

**Subpart C—Other Information Subject to Restricted Access**

**§ 103.31 Information on vessel manifests and summary statistical reports.**

(a) *Disclosure to members of the press.* Accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications shall be permitted to examine vessel manifests and summary statistical reports of imports and exports and to copy therefrom for publication information and data subject to the following rules:

(1) Of the information and data appearing on outward manifests, only the name and address of the shipper, general character of the cargo, number of packages and gross weight, name of vessel or carrier, port of exit, port of destination, and country of destination may be copied and published. However, if the Secretary of the Treasury makes

an affirmative finding on a shipment-by-shipment basis that disclosure of the above information is likely to pose a threat of personal injury or property damage, that information shall not be disclosed to the public.

(2) Commercial or financial information, such as the names of the consignees, and marks and numbers shall not be copied from outward manifests or any other papers.

(3) All the information appearing on the cargo declaration (Customs Form 1302) of the inward vessel manifest may be copied and published. However, if the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that the disclosure of the information contained on the cargo declaration is likely to pose a threat of personal injury or property damage, that information shall not be disclosed to the press.

(b) *Review of data.* All copies and notations from inward or outward manifests shall be submitted for examination by a Customs officer designated for that purpose.

(c) *Disclosure to the public.* Members of the public shall not be permitted to examine vessel manifests. However, they may request and obtain from Customs, information from vessel manifests, subject to the rules set forth in paragraph (a) of this section. However, importers and exporters, or their duly authorized brokers, attorneys, or agents may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or make any copies or notations from them except with reference to the particular importation or exportation in which they have a proper and legal interest.

(d) *Confidential treatment—(1) Inward manifest.* An importer or consignee may request confidential treatment of its name and address contained in inward manifests, to include identifying marks and numbers. In addition, an importer or consignee may request confidential treatment of the name and address of the shipper or shippers to such importer or consignee by using the following procedure:

(i) An importer or consignee, or authorized employee, attorney or official of the importer or consignee, must submit a certification (as described in paragraph (d)(1)(ii) of this section) claiming confidential treatment of its name and address. The name and address of an importer or consignee includes marks and numbers which reveal the name and address of the importer or consignee. An importer or consignee may file a certification requesting confidentiality for all its shippers.

(ii) There is no prescribed format for a certification. However, the certification shall include the importer's or consignee's Internal Revenue Service Employer Number, if available. There is no requirement to provide sufficient facts to support the conclusion that the disclosure of the names and addresses would likely cause substantial harm to the competitive position of the importer or consignee.

(iii) The certification must be submitted to the Disclosure Law Officer, Headquarters, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

(iv) Each initial certification will be valid for a period of two years from the date of receipt. Renewal certifications should be submitted to the Disclosure Law Officer at least 60 days prior to the expiration of the current certification. Information so certified may be copied, but not published, by the press during the effective period of the certification. An importer or consignee shall be given written notification by Customs of the receipt of its certification of confidentiality.

(2) *Outward manifest.* If a shipper wishes to request confidential treatment by Customs of the shipper's name and address contained in an outward manifest, the following procedure shall be followed:

(i) A shipper, or authorized employee or official of the shipper, must submit a certification claiming confidential treatment of the shipper's name and address. The certification shall include the shipper's Internal Revenue Service Employer Number, if available.

(ii) There is no prescribed format for a certification.

(iii) The certification must be submitted to the Disclosure Law Officer, Headquarters, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

(iv) Each certification will be valid for a period of two (2) years from the date of its approval.

(3) If any individual shall abuse the privilege granted him to examining inward and outward manifests or shall make any improper use of any information or data obtained from such manifests or other papers filed in the customhouse, both he and the party or publication which he represents shall thereafter be denied access to such papers.

(e) *Availability of manifest data on magnetic tapes*—(1) *Availability*. Manifest data acquired from the Automated Manifest System (AMS) is available to interested members of the public on magnetic tape. This data, compiled daily, will contain all manifest transactions made on the nationwide system within the last 24 hour period. Data for which parties have requested confidential treatment in accordance with paragraph (d) of this section will not be included on the tapes. These tapes may be purchased at the government's production cost. Tapes are available for specific days or on a subscription basis.

(2) *Requests and subscriptions*. Requests for tapes must be in writing and submitted to: U.S. Customs Service, Accounting Services—Accounts Receivable, P.O. Box 68907, Indianapolis, Indiana 46278. Requests must include a check to cover the cost of the tapes requested. Actual costs and other specific information should be ascertained by contacting the Accounting Services—Accounts Receivable at (317) 298-1330. Bills for subscriptions will be issued monthly, with the first month's fee due in advance. Requested tapes will be mailed from the Customs Data Center, first class, on the next business day after compilation. Parties desiring another form of delivery will have to make their own arrangements and notify Customs in advance. Subscriptions may be canceled provided Customs receives written notice at least 10 days prior to the end of the month. The U.S. Customs Data Center must be notified in writing within seven days of tech-

nical problems with tapes or non-receipt of tapes in order to receive a replacement or credit towards future tape purchases. Refunds will not be provided. Information regarding the technical specifications of the tapes, problem tapes or the non-receipt of tapes should be directed to U.S. Customs Data Center, on (703) 644-5200.

(3) *Data elements*. The following are the data elements from the AMS manifest which will be provided to the public via magnetic tape:

1. Carrier code.
2. Vessel country code.
3. Vessel name.
4. Voyage number.
5. District/port of unloading.
6. Estimated arrival date.
7. Bill of lading number.
8. Foreign port of lading.
9. Manifest quantity.
10. Manifest units.
11. Weight.
12. Weight unit.
13. Shipper name.<sup>1</sup>
14. Shipper address.<sup>1</sup>
15. Consignee name.<sup>1</sup>
16. Consignee address.<sup>1</sup>
17. Notify party name.<sup>1</sup>
18. Notify party address.<sup>1</sup>
19. Piece count.
20. Description of goods.
21. Container number.
22. Seal number.

[T.D. 81-168, 46 FR 32565, June 24, 1981, as amended by T.D. 84-111, 49 FR 19953, May 10, 1984; 49 FR 23340, June 6, 1984; T.D. 85-123, 50 FR 29954, July 23, 1985; T.D. 91-77, 56 FR 46114-46115, Sept. 10, 1991; T.D. 92-92, 57 FR 44089, Sept. 24, 1992. Redesignated by T.D. 96-36, 61 FR 19838, May 3, 1996, and amended by T.D. 99-27, 64 FR 13675, Mar. 22, 1999; T.D. 01-14, 66 FR 8767, Feb. 2, 2001]

#### § 103.32 Information concerning fines, penalties, and forfeitures cases.

Except as otherwise provided in these regulations or in other directives (including those published as Treasury Decisions), port directors and other Customs officers shall refrain from disclosing facts concerning seizures, investigations, and other pending cases until Customs action is completed. After the penalty proceeding is closed

<sup>1</sup>Designates data element which will be deleted where confidentiality has been requested.